

#### § 403.39

had no knowledge or reason to believe that the property would be involved or used in violation of the internal revenue laws. If the petitioner knows, at the time he files the petition, that the person in whose possession the seized property was at the time of the seizure had a record or reputation for committing commercial crimes, the petitioner should state in the petition whether the petitioner knew of such record or reputation before the petitioner acquired his interest in the property or before such other person came into possession of the property, whichever occurred later. For purposes of this paragraph, the term “commercial crimes” includes, but is not limited to any of the following federal or state crimes:

(1) Offenses against the revenue laws; burglary; counterfeiting, forgery; kidnapping; larceny; robbery; illegal sale or possession of deadly weapons; prostitution (including soliciting, procuring, pandering, white slaving, keeping house of ill fame, and like offenses); extortion; swindling and confidence games; and attempting to commit, conspiring to commit, or compounding any of the foregoing crimes. Addiction to narcotic drugs and use of marijuana will be treated as commercial crimes.

(2) [Reserved]

(e) *Documents supporting claim.* The petition should be accompanied by copies, certified by the petitioner under oath as correct, of contracts, bills of sale, chattel mortgages, reports of investigators or credit reporting agencies, affidavits, and any other documents that would support the claims made in the petition.

(f) *Costs.* The petition should contain an undertaking to pay any costs assessed as a condition of allowance of the petition. Such costs include but are not limited to all expenses incurred in seizing and storing the property; the costs borne or to be borne by the United States; the taxes, if any, payable by the petitioner or imposed in respect of the property to which the petition relates; the penalty, if any, asserted by the Internal Revenue Service; and, if the property has been sold, or is in the course of being sold, the expenses incurred relating to such sale.

#### 26 CFR Ch. I (4-1-03 Edition)

#### § 403.39 Time of filing petition.

A complete petition for remission or mitigation must be filed before the expiration of three months after the sale or other disposition of the property with respect to which the petition is filed. For purposes of this part, the term “sale or other disposition” includes acquisition of the property for official use.

(Sec. 613, 46 Stat. 756, sec. 306, 49 Stat. 880; (19 U.S.C. 1613, 40 U.S.C. 304(k)))

#### § 403.40 Place of filing.

The petition should be filed in triplicate with the District Director for the internal revenue district in which the property was seized.

#### § 403.41 Discontinuance of administrative proceedings.

If the petition is filed prior to sale or other disposition of the property, proceedings to effect such sale or other disposition will be discontinued until the petition is either allowed or denied.

#### § 403.42 Return of defective petition.

If the petition is defective in some correctable respect, the original of the petition will be returned by letter to the petitioner who will be allowed to submit a corrected petition, in triplicate, within a reasonable time.

#### § 403.43 Final action.

(a) *Petitions for remission or mitigation of forfeiture.* (1) The Commissioner or his delegate shall either allow or deny any petition filed pursuant to these regulations. Such allowance or denial will constitute final action. If he allows the petition, the Commissioner or his delegate shall state the conditions, if any, of the allowance.

(2) If he allows the petition, the Commissioner or his delegate may order the property returned to the petitioner, sold for the account of the petitioner, or, pursuant to agreement with the petitioner, acquired for official use.

(3) The Commissioner or his delegate shall notify the petitioner of the allowance or denial of the petition and, in the case of allowance, the conditions, if any, under which the Commissioner or his delegate allowed the petition.

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(b) *Offers in compromise of liability to forfeiture.* The Commissioner or his delegate shall accept or reject any offer in compromise of the liability to forfeiture of personal property seized pursuant to § 403.25 and such acceptance or rejection shall be a final action with respect to the offer.

### § 403.44 Acquisition for official use and sale for account of petitioner in the case of an allowed petition.

(a) *Acquisition for official use.* The seized property may be purchased by the United States pursuant to agreement and retained for official use. Where the petitioner is the owner, the purchase price is the appraised value of the property less all costs. Where the petitioner is a creditor, the purchase price is the smaller of:

(1) The petitioner's equity, or (2) the appraised value of the property less the amount of all costs.

(b) *Sale for account of petitioner.* If the petitioner elects not to comply with the conditions, if any, set for the return of the property, the Commissioner or his delegate is authorized to sell the property. If the petitioner is the owner of the property, there is deducted from the proceeds of the sale all costs incident to the seizure, forfeiture, and sale. The Commissioner or his delegate shall pay to the petitioner, out of the proper appropriation, an amount equal to the balance, if any. Where the petitioner is a creditor, there is deducted from the proceeds of the sale all costs incident to the seizure, forfeiture, and sale, and the Commissioner or his delegate shall pay to the petitioner, out of the proper appropriation, an amount equal to the smaller of: (1) The balance, if any, or (2) the equity of the petitioner.

### § 403.45 Re-appraisal of property involved in an allowed petition.

In determining the nature and extent of the relief to be afforded a petitioner pursuant to § 403.44 the value of the property with respect to which the petition has been allowed is the value of such property as determined by the appraisal thereof made pursuant to § 403.26(a)(2) but if the petitioner desires re-appraisal of the property, after notification as to the conditions of al-

lowances of the petition, and makes written request therefor, undertaking in such request to pay, or to be liable for, the total costs of such re-appraisal, the property shall be re-appraised in the manner in which the original appraisal was made, and the conditions of allowance of the petition shall be modified to the extent required by such re-appraisal.

## Subpart E—Appraiser's fees

### § 403.50 Rate of compensation.

Each appraiser selected under § 403.26(a)(2) shall receive as compensation a reasonable fee not to exceed \$15.00 per hour or portion thereof for the performance of such appraiser's duties in appraising property seized as subject to forfeiture under the internal revenue laws and this part.

Because this regulation is nonsubstantive, liberalizing and essentially procedural, it is found unnecessary to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

[T.D. 7695, 45 FR 27932, Apr. 25, 1980]

## Subpart F—Administrative Sale of Personal Property

### § 403.55 Alternative methods of sale.

When personal property forfeited administratively is to be sold, the Commissioner or his delegate shall cause a notice of sale to be placed in a newspaper of general circulation published in the judicial district wherein the seizure was made. The sale shall occur not less than 10 days from the date of the publication of the notice. At the discretion of the Commissioner or his delegate the forfeited personal property may be sold at public auction to the highest bidder on open, competitive bids, or sold to the highest bidder on sealed, competitive bids.

(Sec. 7325, 68A Stat. 870, as amended; (26 U.S.C. 7325))